

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL STATEN,	§
	§ No. 54, 2010
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ C.A. No. 10M-01-021
	§ Cr. ID No. 0508018142
Plaintiff Below-	§
Appellee.	§

Submitted: May 14, 2010

Decided: July 7, 2010

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 7th day of July 2010, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Michael Staten, filed an appeal from the Superior Court’s January 8, 2010 order denying his petition for a writ of habeas corpus. We find no merit to the appeal. Accordingly, we affirm.

(2) The record reflects that, in March 2006, Staten pleaded guilty to Maintaining a Dwelling for Keeping Controlled Substances and Conspiracy in the Second Degree. In exchange for the plea, the State dismissed 4 additional drug-related charges. Staten was sentenced to a total of 4 years at Level V, to be suspended after 3 years for probation. In September 2008,

January 2009, and July 2009, Staten was found to have committed violations of probation (“VOP’s”) in connection with his sentence for conspiracy. He was re-sentenced accordingly. In January 2010, Staten filed a petition for a writ of habeas corpus in the Superior Court. In its order dated January 8, 2010, the Superior Court ruled that, because Staten was legally detained, his petition would be denied.

(3) In his instant appeal from that decision, Staten claims that he has been incarcerated for a period in excess of the sentence imposed by the Superior Court on his conspiracy conviction. Specifically, he argues, he has not been given Level V credit for the 8 months he spent at Level IV Halfway House beginning on January 14, 2009. As a result, he argues, the Superior Court erred when it denied his petition for a writ of habeas corpus.

(4) In Delaware, the writ of habeas corpus provides relief on a very limited basis.¹ Habeas corpus only provides “an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment.”² “Habeas corpus relief is not available to ‘[p]ersons committed or detained on a charge of treason or

¹ *Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997).

² *Id.*

felony, the species whereof is plainly and fully set forth in the commitment.”³

(5) Staten is not entitled to habeas corpus relief because he has failed to demonstrate any irregularity with respect to his commitment or any issue with respect to the jurisdiction of the Superior Court. Any claim that Staten has not been given proper credit for time spent at Level V must be asserted by means of a Rule 35 motion.⁴ As such, the judgment of the Superior Court must be affirmed.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

³ Id. (quoting Del. Code Ann. tit. 10, §6902(1)).

⁴ The Superior Court docket reflects that Staten did file such a motion in the Superior Court on January 12, 2010 and that, on April 7, 2010, the Superior Court ruled on that motion.